

The University of Chicago

THE COLONATE UNDER THE LATE
ROMAN EMPIRE

A PART OF A DISSERTATION SUBMITTED TO
THE FACULTY OF THE DIVISION OF THE
SOCIAL SCIENCES IN CANDIDACY FOR THE
DEGREE OF DOCTOR OF PHILOSOPHY

DEPARTMENT OF HISTORY

AUGUST, 1940

By
EMIL LUCKI

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INTRODUCTION: THE PROBLEM STATED

The Roman colonate, an institution of semi-free peasants (coloni) who were bound to the soil they tilled, has been the subject of many studies. But if its characteristics have been described, its origins investigated, and its operations examined, its history after the decline of the Roman Empire has not been disclosed with sufficient clarity. What little has been said of this history by scholars concerned with the Roman colonate--who by way of providing a conclusion to their own studies, have ventured to explain what became of the colonate after the decline of the Empire--and by writers on medieval institutions, has been in the nature of insufficiently established hypotheses or sketchy surveys. The problem, therefore, of tracing the history of this institution to its end, that is, of determining what happened to the coloni after the Germanic peoples had established their rule in the western part of the Roman Empire--whether they assimilated with the other servile classes, and, if so, when, how, and to what degree--still awaits a fuller investigation. To meet this need, if only in small part, is the purpose of this dissertation.

The problem as enunciated above, even if studied for a single country, is manifestly very extensive. If it is to be dealt with successfully, it will call for the tracing of the history not only of the coloni but also of the slave, the freedman, the precariste and the free (ingenui) class on the Roman side, and of the same or comparable peasant classes on the Germanic side; and will also demand the tracing of these respective histories over a period of some seven centuries, roughly from the early fifth century, when the colonate may be said to have reached its full development, to and through the eleventh century, by which time the villein class had become established as the predominant peasant class in western Europe. A task of such magnitude is obviously beyond the scope of a doctoral dissertation. In the present dissertation, therefore, aside from a summary analysis of the colonate in the late Roman era, which will serve as a working basis for the subsequent part of the study, only one part of this problem will be undertaken--the tracing of the fortunes of the coloni in Frankish Gaul up to approximately the third quarter of the ninth century.

CHAPTER I

THE COLONATE UNDER THE LATE ROMAN EMPIRE

The essential feature of the colonate in the time of the late Roman Empire was the nexus that bound the colonus to the land he cultivated. This bondage was extremely firm and was to be maintained by both the colonus and his dominus. The colonus had no right to leave the land on which he labored; if he fled and sought refuge with another person, he was to be returned forcibly to his original holding and threatened with slavery, while his unlawful holder was to compensate his rightful dominus for the loss the latter had incurred by the absence of his colonus from the estate, was to meet the capitation due from the colonus, and subsequently pay a fine. On the other hand, the dominus could not eject his colonus from his holding; and if he disposed of his estate, or any part of it, the coloni living thereon accompanied it.

Yet the bondage of the colonus was not absolutely unbreakable. Flight, of course, was one of the commonest ways of breaking it; and, indeed, the repetition of the provisions and the harshness of the decrees designed to check flight reveal all too readily the frequency and the persistence of this practice. Flight, however, seldom led to liberty, for before the year 419 A.D. lawful refuge could be found only in the service of some one or other of the state corporations and then only after the lord's right of reclamation had been successfully evaded for a prescribed period of years, thirty or forty, according as the fugitive's new habitat was in the same or in a different province. If this principle of prescription was extended in the year 419 to cases where liberty itself and not service in a public corporation was the alternative, the privilege was short-lived, for it was removed by Valentinian III. By a decree issued in 451 this emperor authorized proprietors on whose estates fugitive coloni found domicile for more than thirty years to claim the fugitives as their own coloni if their former domini failed to claim them. So that now flight, though it brought a change of habitat and the possibility of a fairer lord and better material conditions, did not in most cases bring actual liberty.

But one way there was of severing this bondage to the land, namely, entry into the priesthood. The law permitted a person "inscribed on the census rolls," and therefore a colonus, to take holy orders. But on condition, of course, that he obtained his lord's consent, sustained his capitation tax through his lord, and provided a substitute to fulfil his agricultural services. The chief condition is obviously the first; and as it implies the government's recognition of the landlord's right to give or withhold consent, it therefore implies that the authorities conceded to the proprietor in this one case the right to break the bondage that bound the colonus to his estate.

Thus, with only one, or possibly with two, means of dissolving it, this bondage was indeed firm. It was made doubly so by the fact that it was hereditary and bound the colonus to his land from generation to generation. Rightly then was it spoken by the legist of Honorius when he called the coloni "slaves of the land."

Bondage to the glebe made the colonus a member of a large estate; but it did not convert him into a member of a plantation gang. His attachment was not in the capacity of a slave working in common with his associates on the landlord's domain; rather was it that of a permanent tenant with a separate household and an individual tenure. In fact in some instances the tenure was so independent that, in order to preclude the possibility of some venturesome colonus trying to convert a long occupancy into an outright ownership, the government felt it necessary to declare that the colonus had no right to alienate the land he cultivated. The hereditary character of the tenure further bespeaks its separateness.

Of the size and the distribution of the holdings to which the coloni were bound, apparently no definite information is extant for the period of the late Roman Empire. No doubt some holdings were small, others larger; some were compact, while others, due to possible reclamations of wild land or of the deserted arable fields, probably consisted of several parcels. These variations, we may be sure, prevailed from province to province, and even within the estates themselves. The safest generalization which can be made in this respect is that the holding was generally large enough to furnish a family with a livelihood.

Equally inconclusive is the information concerning the dues the colonus paid to the landlord for his holding. Though it is known that the landlord was to accept "what the land offered" and "not to require money": that payment was made in kind on some estates, in money on others, and in money and kind on still others; and that labor on the proprietor's demesne was also due, yet the amounts of the dues in each case are not known.

Whatever the amounts of the dues, they were to remain fixed within the estate. The landlord was forbidden to introduce any innovations and was obliged to follow old custom, which was to pass unchanged to succeeding generations; while the colonus on his part was directed to report to the nearest judge any attempts of the landlord to rack-rent. To be sure this custom of fixed dues was violated on some estates. The raison d'être of the decrees implies such a violation, and the flight of the coloni, presumably in search of better conditions, tends to confirm this suggestion. On the other hand, there were considerate landlords also.

For most of the practices as regards dues, antecedents some two centuries old are to be found in the rental obligations of coloni on imperial estates in Africa in the second century A.D. The inscription of Henchir Mettich indicates that the tillers of the soil on the Villa Magna Mariana paid one third of their wheat and barley harvest, one quarter of their bean crop, one third of their wine and oil yield, and "of honey in containers, one sextarius for each honey jar"; also, that they were obliged "to furnish per year, per man, two days' work at the plow, two days' work at the harvest, and at weeding one day's work of each kind, (that is) two days' work total." As to the operae the inscription of Gazr Mazuar offers a variation: the coloni "were limited to four days' plowing, four days' hoeing, and four days' harvesting," and possibly had to help at brick-making. According to a third inscription, that of Souk-el-Khmis, the coloni on the saltus Burunitanus paid rent in shares, worked for the estate two days at plowing, two at weeding, two at harvesting; their charges were in accordance with a perpetua forma which the emperor forbade the procurators to violate.

Thus, aside from the question of the amount of dues or days of service, the nature of the charges of the coloni as evidenced by these African inscriptions resembles that of the obligations of the period of the late Roman Empire: they consisted of

payment in kind and of services, varied from place to place, but were fixed by custom within each domain, though, as the petition of the coloni of the saltus Burunitanus plainly indicates, some landlords increased them at pleasure.

This latter practice, added to the important fact that during this interval of time, from the second to the fourth century, the colonate was transformed from an institution of free tenantry to one of bondsmen of the soil, naturally leads one to suspect that by the end of the fourth century the charges were increased. Particularly true this would be as regards the operae, for it would be to their coloni that the proprietors would turn for the extra help needed to fill the labor shortage caused by the continual decrease of slaves.

The colonus that has emerged so far from these pages appears as a permanent tenant. There can be little doubt that a similar fortune befell most of the members of his class. Paupers or war captives established as coloni were obviously landless when they acquired this status; and many a small landowner who fled the usurer or the tax collector had probably lost his land when he sought refuge in the colonate on the broad acres of a distant magnate. Yet there were some coloni who could point to a field of their own; and the law recognized their ownership, for it inscribed this land in the census rolls in their name and made them responsible for state obligations due from it.

This privately owned land naturally was not extensive; in most cases it probably was only a quantulacumque possessio, though Constantine's decree of 342 ordering the curiales, who joined the colonate to escape their duties, to be restored to their offices if they had more than 25 jugera of land, implies that there were coloni who possessed land up to that amount.

From this land and from his holding the colonus derived produce. A certain portion of the yield from the latter he paid to the dominus, but the rest, together with the stock he raised, was his personal property. He could dispose of it on the market or use it to meet his fines. Yet, though he could not be deprived of it by his dominus, the latter had some claim to it, for the law directed the sons of deceased fugitive coloni to return to their fathers' domini with their peculium. Similarly with their owned estates: though the landlord could not prevent the colonus from bequeathing his land to his children,¹¹ he was per-

mitted by law to prevent the alienation of it without his consent.

In their position as tenants bound to the soil, the coloni served the imperial fisc two purposes. By their attachment to the glebe they enhanced the assessment value of their lord's land, were therefore inscribed in the census description of the domain and reckoned as a unit of taxation. In their capacity as tenants with the right to enjoy the greater portion of the fruits of their labors, they were used as a source of revenue: they were taxed.

The tax that fell on them directly was the capitation tax. Every able-bodied colonus and colona was subject to it. Women were assessed at less than men, sometimes at one-half, sometimes at three-fourths. Children, old people, coloni serving in the army, wives of coloni with five years' army service to their record, were all exempted from it.

To collect this tax, the state utilized the services of the proprietors. In fact, except in cases where custom of the estate demanded that the colonus pay the capitation himself, the proprietor advanced it to the fisc and then recovered it from his colonus, a practice which offered an unscrupulous magnate a chance for abuse.

In addition to the capitation, the coloni were subject to certain annual services, known generally as sordida et extraordinaria munera. These consisted, among other things, in furnishing the army with lime, wood, and other building materials, in preparing bread and flour for it, and in contributing to the travelling needs of public officials; and were exacted throughout the year except during the seasons of seeding and harvesting.

Finally, service in the army faced the colonus as a possible third kind of obligation to the state. Though the state itself did not conscript him and in fact prohibited him from entering the army, yet, because the state obliged the landowners to supply the recruits, the colonus, willy-nilly, was sent to serve in the ranks.

As a tenant owing services, the colonus was subordinated to his dominus materially, and as a bondsman, he was subordinated jurisdictionally. As regards the first type of subordination, little need be said. It is obvious that in the performance of his due services the colonus had to abide by the commands of the dominus or his agent; nor is it at all inconceivable that the dominus

would use his influence, possibly even exert pressure, to constrain the colonus to follow directions even in cultivating his own farm. But it is the second type of subordination, the juridical type, which is important.

The landlord's jurisdiction over his colonus was part of the private authority he was gradually erecting over his entire domain; while the government's practice of using the great proprietors as its intermediaries in such functions as the collection of the capitation tax and the recruitment of soldiers, naturally promoted this process. The result of both tendencies was that by the beginning of the fifth century the landed magnates enjoyed a wide prerogative within their estates.

In regard to the extent of this authority several laws are instructive. Constantine's regulation of 332, declaring it "right to bind in chains coloni who were contemplating flight," and a subsequent decree extending this same right to apprehended fugitive coloni "when recalled," contain no provision for state participation or intervention in determining who were the guilty or in imposing the penalty. The state simply abdicated its authority in this case in favor of the domini. In 412 it even went one step further and actually conferred authority on the landlords: it made them responsible for the conversion of their Donatist slaves and coloni and empowered them to use the lash. It thus in this case made each lord with respect to his colonus, a prosecutor, a judge, and an executioner--this in addition to the blanket powers it allowed to him in his capacity as patronus and dominus of the colonus.

Yet the state did not abandon the colonus entirely to the caprice of the master. It set certain limitations to his authority; he could not legally drag the colonus into servitude, or demand from him personal service, or evict him from his domain, or alter the conditions of his tenure, or do injury to him or his family. In addition, in the case of any violations of the last two restrictions, the state, however reluctantly, permitted the colonus to take legal action against the offender. Still, it should be noted that except in the field of these restrictions the colonus was very much under the control of his lord.

Incidental reference has already been made to the fact that a person became a colonus by birth. The laws are very explicit about this origin and leave no doubt that this was the

chief source of the colonate. The famous decree of 332 speaks of restoring a colonus to the soil "of his birth"; a law of Honorius and Theodosius II makes reference to a colonus who had not been claimed back to the land on which he was born, and to him who had to return to his "birthplace"; a pronouncement of Valentinian I and Valens decrees that coloni should be returned to the homes where they were "inscribed, raised, and born"; and still another orders the children of coloni "to cling to the land which their fathers once had taken up for cultivation" and "to remain under the same conditions and limitations as their fathers."

This rule was normally operative when both parents were coloni whether they were on the same estate or on different estates. In the latter case, however, the law at first required a division of the offspring between the two estates, one third remaining with the mother's dominus and two thirds with the father's lord. Obviously this regulation was a hardship; so a change was instituted permitting the wife and family to join her husband's estate, but on condition that her husband's dominus provided her own master with a substitute for her and her children. If the status of the parents was not the same, but if one of them was of colonus status, the rule was that the offspring acquired the mother's status, except when the mother was free, in which case the law had it that the children followed their father and so became coloni.

Voluntary entry into the colonate was another way in which a person might become a colonus. Salvian reports that many, oppressed by the exactions of the fisc, fled their own farms and "sought the lands of the great and became their coloni"; while in an interpretatio of a decree of Valentinian III, there is evidence that strangers of free status (advenae, voluntarily agreed to become coloni on the estates of the domini whose coloniae they sought in marriage.

Whether free peasants in this period were constrained to enter the colonate under the pressure of neighboring proprietors is not evidenced by specific proof. But it is entirely possible that some large landowners, by underhand means such as Caesarius of Arles described for the early sixth century, absorbed first the small neighbor's farm and then the peasant himself. Indeed, it may have been against some such abuse that Justinian later issued a decree prohibiting forceful subjection into the colonate.

On the other hand, the government itself brought men into the colonate. By a decree of 382 it made able-bodied beggars and vagabonds coloni of the proprietors who denounced them to the state. And early in the following century it distributed the members of the vanquished Scyrian tribe among landowners under the right of colonate.

Thus a man might become a colonus by birth, or by voluntary entry, or by forcible adscription.

To ascertain the status of a colonus it is necessary first to determine the rights he enjoyed, and the disabilities he sustained, as a member of society, and then to interpret these. The first part of this problem has been investigated in the preceding paragraphs, and the results of this investigation are available for our consideration.

It was observed that the colonus farmed an independent hereditary tenure and that the tenure was sometimes supplemented by privately owned land which he could bequeath to his progeny. It has been indicated also that he enjoyed the profits from his holding and his property and that he could protect himself legally against rack-renting and injury to his person. To these rights it is necessary to add that his marriage was a legal bond, a matri-monium and not contubernium. These, obviously, are rights of any legally free man.

And as such the law at times regarded the colonus. In the famous rescript of 332 he is reported to have duties incumbent upon him as a free man. The decree of Valentinian and his colleagues forbidding the retention of another's freedman designates the colonus as free. If Honorius and Arcadius referred to him as a bondsman of the glebe, they nevertheless admitted that he was regarded as free. Again where the law did not explicitly refer to him as free, it implicitly did so in many cases by maintaining a distinction between him and a servus or between his condition and the servile condition. Theodosius and Honorius forbade the proprietors to depress "into servitude" any colonus the government settled on their lands.

Thus distinguished from a servus, designated as free, and endowed with some rights of a freeman, the colonus might well appear to be a person of free status. But that he did not enjoy this status will appear when the debit side of his status will have been examined.

If, on the one hand, the colonus farmed an independent tenure, on the other, he was not at liberty to break away from the estate to which the holding belonged. To escape from this tie was well-nigh impossible: he could be pursued as a fugitive, brought back to the estate and submitted to chains. The land which he owned and the peculium which he derived from his holding he might not dispose of at his own will without the consent of his dominus. If the law permitted him to seek legal protection against increased exactions and bodily injury, it did so only grudgingly, and called him "audacious" if he attempted to bring his lord before the court. It "denied him voice" in other than the instances specified, and actually surrendered him to his lord in certain other matters. If his marriage was legal, in general it could only be contracted with a person of his own status, and preferably with a colona of his lord's estate; and then, through its consummation he transmitted his status to his offspring, who became as irrevocably bound to the land as he was. Thus, every freeman's right that the colonus enjoyed was in one way or another subject to the landlord's will or restricted by state law.

Again, if on some occasions the law distinguished the colonus from a servus, at other times it classed him with the slave over against the free. So, if the harbinger of a counterfeiter was a dominus, he was fined; but if he was a colonus or a servus he was flogged. If the person concealed was an army deserter, the dominus was fined, but the colonus or actor (generally a slave) was executed. Donatists of free status were to be converted to orthodoxy by the state; coloni and slaves, by their landlords. Thus in these three cases the distinction of importance is between the free on the one hand and the dependent on the other, and not between the colonus and the servus in spite of their separate designation in the law.

Furthermore, if the law designated the colonus as free, it also, in at least one case, designated him a servus. In 401 the emperors Honorius and Arcadius issued a decree requesting that record keepers (tabularii) be appointed only from free men and not from persons subject to servitude. The decree further declared that "if any dominus shall have permitted his slave or colonus to draw up public accounts, we pronounce . . . that the dominus himself be held responsible for whatever loss the state should incur through the accounting done by a slave or a colonus, and that the

slave be beaten deservedly and confiscated to the fisc." Thus in this regulation the colonus (1) is excluded from the free, (2) is included among those subject to servitude, and (3) is actually designated together with the slave by the one term servus.

And so the scales have been laden: the colonus' rights as a freeman are counterweighted by restrictions not applicable to a freeman; and his designation as free is opposed by his designation as a servus. The status of a colonus is therefore neither that of a freeman nor that of a servus; it is a condition between the extremes, not easily ascertainable but probably closer to that of a servus.

CHAPTER VIII

STATUS OF THE COLONUS

In our discussion of the status of the colonus in the period of the late Roman Empire we came to the conclusion that the colonus was neither a freeman nor a servus; that he was at times designated ingenuus and enjoyed some rights corresponding to a free status; that he was comprehended under the term servus, however rarely this may have been, and that, in some respects, he was subject to the same legal limitations as a servus; and, finally, that from the material point of view his condition resembled rather closely that of a servus. It is along the same lines that we may conduct our investigation to ascertain the status of the colonus in the post-invasion period.

We find that the term ingenuus, or some derivative or equivalent form, continued to be used in reference to coloni in post-invasion Gaul. Thus, in the Lex Romana Visigothorum, the decree which enjoins that an advena marrying a colona is to remain on the lands of her dominus, also directs that the husband is not to be deprived of his ingenuitas. The Alamannian law actually refers to the colonus as liber. In the Polyptych of Abbot Irminon this designation appears twice, once in reference to coloni on the estate of Vitry, who, according to the entry, were regarded as ingenui at the time of the composition of the polyptych as they were at the time when St. Germain's father donated the estate to the monastery; and once, casually, in the summa of a descriptio where the report has it that so many scantlings were due from mansi of ingenui, lidi and servi, while the individual holders of the mansi were qualified as coloni, lidi, servi or extranei. In the Polyptych of St. Remy the designation ingenuus has replaced the term colonus in the entries of all the estates but one; and in the Polyptych of St. Bertin, completely.

Not only did the mere designation ingenuus obtain during our period, but with it also, some corresponding rights of a free-man. The post-invasion colonus retained the right to take legal action against his dominus in defense of his obligations and status.

He could own property of his own. As a person, he could not be disposed of by his seignior. His act as a witness was recognized by law. His marriage was a legal union. Finally, what was an entirely new development, he was accorded, at least in accordance with one law, the Alamannian, a wergeld equal to that of a freeman.

Relative to the other side, the servile side of the status, we find that in the period we are concerned with the colonus was at times comprehended under the term servus. Explicitly such a comprehension does not appear frequently. It is present, for instance, in the Liber legum Gundebati, chapter vii, which outlines the procedure to be followed in determining whether servi or originarii, who were charged with crime, were guilty or not, but refers to the principals, in consecutive order, as servus, servo neque . . . originario, seu servi seu coloni, servus aut colonus, servus, servus sive colonus, servi, and so in three places includes the colonus in the term servus. It appears again in a charter of immunity accorded in 830 by Louis the Pious and his son Lothair to the abbey of St. Philibert of Noirmoutier. In reply to Bishop Otto's request, "ut homines ejusdem monasterii sive liberi sive servi ad eum perpetualiter tuendum specialiter deputantur et ab aliis publicis obsequiis per nostram largitatem immunes consisterent" the sovereigns conceded that "homines ejusdem monasterii, sive liberi, qui beneficia exinde habere, vel super ejus terras commanere noscuntur, sive coloni vel servi ad eum juste pertinentes, a cunctis officiis . . . immunes . . . sint." Thus the term servi in the request comprehends the terms coloni and servi in the response.

More frequently this comprehension is implicit; and as it is rather common, we may select but a few examples to show that it was current throughout our period.

Chapter v of the Liber legum Gundebati prescribes the compensation to be paid to victims of assault. The prescription is intended to be comprehensive and seeks to provide for any person who might be attacked, yet it specifies only the three classes, ingenui, liberti, and servi. The colonus is not named, though, as we have seen already, this same code recognized his individual class. He must, therefore, be included in one of the three designations given; and from what we already know about the identification of a colonus with a servus, we may be quite certain that here, too, the colonus is comprehended under the term servus.

In 596 Childebert II decreed, among other things, that no labor was to be performed on the Lord's day and prescribed the penalties to be imposed on those failing to abide by the order. The penalty was 15 solidi for an ingenuus Salicus, 7-1/2 solidi for an ingenuus Romanus, and for a servus, 3 solidi, or failing this, flogging. The colonus is not provided for, though the decree is obviously designed to cover all possible violators. He must be included in one of these terms; not in ingenuus Salicus or Romanus, for they were the two top ranking classes among the Salians; and so, in servus.

In 614 Chlothair II prohibited the execution, without trial, of a robber apprehended without the object of his theft. It is obvious that the culprit might be of any class, and yet the decree specifies only the ingenui and the servi. If the coloni are not designated apart, it is undoubtedly because they are to be comprehended under one of these two terms, and it is not likely that the term is ingenui.

By a similar process of reasoning it is possible to show that this identification obtains among others: (1) in Pippin's capitulary of 754-755, which imposes for the crime of incest the penalty of incarceration for a penniless liber and flogging for a servus or libertus; (2) in Charlemagne's capitulary of 809, which imposes a fine of 15 solidi on a liber homo, and a penalty of 120 blows on a servus, for offering shelter to a robber under ban; (3) in a capitulary of 818-819, which prescribes penalties for those refusing to accept a good denarius--60 solidi for a liber and 60 blows for "servi ecclesiastici aut comitum aut vasallorum"; (4) in one of the provisions (831) for the division of the Empire between the sons of Louis the Pious, whereby the brothers agreed not to accept each other's men, liberi or servi fugitivi.

Corresponding to this terminological identity of a colonus with a servus, there was a certain degree of identity between their status. Thus, for breaches of certain laws, the colonus was subjected to corporal punishment like a servus. He was bound to his seignior's land and might not sever the bond. He had no right to dispose of his own property without the consent of the dominus, nor, according to at least one law, the Liber legum Gundebati, was he, any more than a slave, permitted to secure a loan without his master's permission. As a rule, he was obliged to choose his wife among the women of his own status and of his lord's estates. Fi-

nally, like the servus, he was subject to his lord's powers of distraint and adjudication and his duty of presentment.

This similarity also extended to some material aspects of their positions in the villa economy. Both were dependents, their seignior's homines; both held parcels of his land which were roughly similar in size and composition and for which they rendered obligations which in the majority of cases were not much different and at times were even alike; they lived side by side, and undoubtedly in similar humble homes; both, as a rule, were poor, and together with their congeners formed the same familia or mancipia.

From this whole survey we can see that the status of the post-invasion colonus was in some respects comparable to that of the freeman, and, in others, comparable to that of the servus. It is also quite safe to infer that in practice, in the eyes of the master, the colonus and the servus were not greatly distinguishable.

This description of the colonus' status, it will be noted, is the same as the description set forth at the outset of this chapter, of the pre-invasion colonus. What attributes of a freeman the latter had enjoyed were retained by the post-invasion colonus; none of the old attributes were lost, no new ones were acquired. Similarly in regard to the restrictions: they were the same; the old ones prevailed and no new ones were acquired. Thus, on both scores, the status of the colonus under the Germanic rulers in Gaul does not appear to have been raised or lowered.

This view is not quite in accord with the opinions which some former scholars have advanced in regard to this matter. These scholars argue for a degeneration of the colonate and for a corresponding degradation of the colonus' status.

Guerard notices the degradation in the fact that "sous les empereurs, le colon n'était soumis qu'à des redevances envers le maître, tandis que, sous les rois des Francs, et des autres peuples germains, le colon, qui descendit au rang des non libres, fut, en outre, assujetti à des services corporels, connus plus tard sous le nom de corvées." Boissonade sees the abasement in the lord's right to transplant a colonus from one domain to another, and also in the right to separate him from his family. To Campana one sign of this degradation was the subjection of the colonus to corporal punishment equally as a slave, and another sign was the dependence of the coloni "de leur maître en toutes choses."

If these proofs are to substantiate the thesis of degradation they necessarily must imply that the condition of the colonus of the late Roman Empire was free from the disabilities they evidence. But this does not appear to have been the case. Guerard's belief that the colonus in late Roman times was not obliged to render labor obligations is obviously not in keeping with the known fact that the colonus performed various services for his dominus. The "transplantation" on which Boissonade bases his claim was officially conceded by the Roman emperor Valentinian III, and even then it may not have been a concession of a novel practice but simply a recognition for the first time of practice long current. The separation of the colonus from his family was a legal practice recognized by Roman imperial authorities even earlier than the transplantation. The same applies to both of Campana's proofs: the colonus of the late Roman Empire was as much subject to corporal punishment as was the post-invasion colonus, while the dependence of the coloni "de leur maitre en toutes choses"--a phrase taken from the interpretatio of one of the laws in the Breviary of Alaric and apparently regarded as an indication of a new development--applies as much to the colonus of the late Roman times as to the colonus under the Germanic conquerors; for both the law and the interpretatio are actually of Roman imperial origin and so signify the same fact for the imperial as for the post-invasion times.

Thus the proofs alleged to be evidence of this degeneration have identical Roman antecedents. They do not prove degeneration; they only indicate that the colonus under the "barbarians" continued to be subject to the same disabilities as he was in the time of the late Roman Empire.

The aforementioned scholars argued for degradation; but Fabian Thibault pushed this thesis further, even to the extent of contending that by the ninth century the coloni, that is, those whom he regards as the descendants of the Gallo-Roman coloni, were completely assimilated with the servi. But his proofs of this alleged identity do not appear to justify his claim very well.

As one of his proofs Thibault offers the fact that the colonus was at times comprehended under the term servus. This fact, of course, is not to be denied; but, as has been indicated once already, it does not yield evidence of a degradation; for the use of the term servus in this comprehensive sense obtained at the

time of the Roman rule as well. It might be objected that for the post-invasion period there are more examples of this terminological identity than in the period of the late Roman Empire, and that this increase of evidence may reflect a more advanced assimilation. But, though this possibility cannot be entirely excluded, it is far from being a definite certainty. An examination of the evidence where this identity occurs will reveal that most of it pertains to one subject, i.e., breaches of law. From this fact it follows that what we have is not more evidence of assimilation, but more examples of the equality of the colonus and the servus in respect to a single matter, namely, infraction of law and penalties therefor. But equality in this respect has definite Roman antecedents, and so the objection does not invalidate our conclusion.

For his second proof Thibault points to a ninth-century formula which shows that the reclamation of a fugitive servus who had been purchased by a colonus was conducted in court by the seignior of the colonus and not by the colonus himself, and from this he concludes that the colonus was legally incompetent to be a proprietor. But this deduction is questionable. The fact that the reclamation was conducted by the seignior and not by the colonus purchaser does not necessarily mean that the colonus might not be a proprietor; rather it may be taken to signify that the seignior exercised control over his colonus' property and that he represented his dependent in court. Besides, there is other evidence to show that the ninth-century colonus could be a proprietor.

Thibault's final proof derives from a ninth-century capitulary which reads: "Si ancilla libera dimissa fuerit per cartam et post hoc servo vel colono nupserit, ipse dominus qui prius considerat taliter deturpatum recipiat." From this order Thibault infers that the status to which the cartularia was to be degraded was determined by the status of her prospective husband, and consequently that, if she was to be degraded to an ancilla regardless of whether she married a colonus or a servus, then the status of these two could not have been different. But this interpretation may be questioned. In fact, it seems that what has been taken to signify the equality of the colonus and the servus really distinguishes them. It is entirely possible that the capitulary orders the cartularia to be degraded not to the status of an ancilla, as Thibault contends, but "accordingly" (taliter = in such

wise), that is, to the status of an ancilla if she married a servus and to that of a colona if she married a colonus. But even if Thibault's rendering should be correct, and the woman were to be degraded to the status of an ancilla, the determining factor in this case would not be the status of her husband--so long as he was dependent--but the fact that she herself had originally been an ancilla. Thus, whether interpreted one way or the other, the capitulary can hardly be said to signify an equality of the status of the colonus with that of a servus.

So we find that Thibault's proofs do not warrant his conclusion that under the Germanic invaders the coloni became degraded to the level of servi casati and so disappeared as a distinguishable class. We may therefore re-assert our original position that in the period we are concerned with the status of the colonus does not appear to have been altered noticeably.

If it is suggested that the status of the colonus did not undergo a noticeable lowering in the post-invasion era, it is not denied that during this period some coloni, here and there, may have been degraded to the position of servi. Such degradation may be inferred from the evidence indicating that actual freemen were deprived of their liberty and, for the latter part of the ninth century, it is specifically evidenced by authentic reports. But these cases really signalize infractions of the law or custom and not the custom itself, and, therefore, they cannot be regarded as demonstrative of a general lowering of the status of the coloni as a class. Again, it is to be admitted that the colonus' position on an estate did not differ appreciably from that of a servus. But this fact, too, does not postulate a lowering of the status of the colonus; for the resemblance in status as between coloni and servi obtained throughout our period, and besides, it was to some extent only a surface resemblance which concealed vital differences that were potentially present and could become operative once the position of the colonus was attacked.

Thus in the second half of the ninth century--at which point this study is terminated--the class of coloni had not yet lost in a fusion of peasant classes, but continued to preserve its identity. Presumably this distinctiveness prevailed for some time to come. But by the high Middle Age, the class of coloni had disappeared; and in its place, as well as in the place of the other peasant classes of the early Middle Ages, there appeared the great classes of serfs and villeins.

The question of whether the coloni became serfs or villeins is hazardous to attempt to answer specifically without first continuing the present research into the eleventh century. The hazard becomes the greater now that it has been found that the coloni in Anjou became free peasants. The safest suggestion, then, would be that after the period covered by the present study, the coloni were absorbed by the gradually evolving peasant classes of the high Middle Age--some becoming serfs, others villeins, and still others freemen. But a definite solution of the problem must await further research on the subject.

